

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

|                         |   |                        |
|-------------------------|---|------------------------|
| STEVEN CHARLES EKAITIS, | ) |                        |
|                         | ) |                        |
| Petitioner,             | ) |                        |
|                         | ) |                        |
| v.                      | ) | Case No. CIV-21-31-SLP |
|                         | ) |                        |
| OKLAHOMA DEPARTMENT     | ) |                        |
| OF CORRECTIONS,         | ) |                        |
|                         | ) |                        |
| Respondent.             | ) |                        |

**ORDER**

Before the Court is the Report and Recommendation of United States Magistrate Judge Suzanne Mitchell entered February 2, 2021 [Doc. No. 7]. The Court *sua sponte* granted Petitioner an extension of time until March 23, 2021 within which to object to the Report and Recommendation [Doc. No. 9]. No objection to the Report and Recommendation has been filed nor has an additional extension of time in which to object been sought or granted.<sup>1</sup>

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 7] is ADOPTED in its entirety and this action is DISMISSED WITHOUT PREJUDICE. A separate judgment of dismissal will be entered contemporaneously with this Order.


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<sup>1</sup> The case file reflects that the Clerk's mailing of a copy of the Report and Recommendation to Petitioner was returned as undeliverable. See Doc. No. 10. But it is Petitioner's obligation to provide written notice of a change of address. See LCvR 5.4(a) ("Papers sent by the court will be deemed delivered if sent to the last known address given to the court."); see also *Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10<sup>th</sup> Cir. 1999) (*pro se* plaintiff who failed to provide a change of address or address correction waived review by failing to make a timely objection).

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IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, the Court must issue or deny a certificate of appealability (“COA”) when it enters a final order adverse to a petitioner. A COA may issue only upon “a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Upon consideration, the Court finds the requisite standard is not met in this case. Therefore, a COA is denied. This denial shall be included in the judgment.

IT IS SO ORDERED this 14<sup>th</sup> day of April, 2021.

  
SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE